

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DONALD L. CURTIS,

Plaintiff,

v.

DECISION AND ORDER
08-CV-900S

BRIAN FISCHER, Commissioner, New York
State Department of Correctional Services;;
JAMES T. CONWAY, Superintendent, Attica
Correctional Facility;
JOHN DOE, Correction Sergeant;
K. HAEFNER, Correction Officer;
T. BACKUS, Correction Officer;
M. STACK, Correction Officer;
P. CORCORAN, Correction Officer;
JANE DOE, Correction Officer,
LIEUTENANT POLAK;
LIEUTENANT DIXON;
Acting Captain BORAWSKI;
Hearing Officer NORMAN R. BEZIO,
Director of Special
Housing/Inmate Disciplinary Programs;
Hearing Officer THOMAS EAGAN,
Former Director, Inmate Grievance Program;
ANTHONY J. ANNUCCI, Executive Deputy
Commissioner;
GEORGE STRUEBEL, Inmate Grievance Program
Supervisor.

Defendants.

1. On December 10, 2008, Plaintiff, a prisoner, who is incarcerated in the Attica Correctional Facility, commenced this action by filing a complaint in this Court. Plaintiff brings this action pursuant to 42 U.S.C. § 1983, alleging violations of the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. § 2000cc, and alleged violations of Plaintiff's rights secured under the First and Fourteenth Amendments.

2. On the same day, December 10, 2008, Plaintiff also filed a Motion for a Temporary Restraining Order, (Docket No. 3), a Motion for a Preliminary Injunction, (Docket No. 3), and a Motion for an Expedited Hearing. (Docket No. 7). In compliance with Local Rule 7.1(d), Plaintiff accompanied the Motion for an Expedited Hearing with supporting affidavits, (Docket No. 5), a memorandum of law, (Docket No. 4), a proposed order granting an expedited hearing, and has delivered courtesy copies to chambers.

3. Plaintiff has also filed a Motion for Leave to Proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). (Docket No. 9). Plaintiff has both met the statutory requirements and furnished the Court with a signed Authorization. In addition, Plaintiff's complaint has been screened by the Court with respect to the 28 U.S.C. §§ 1915(e) and 1915A criteria.

IT HEREBY IS ORDERED, that Plaintiff's request to proceed as a poor person (Docket No. 9) is GRANTED.

FURTHER, that the Clerk of the Court is directed to cause the United States Marshal to serve copies of the Summons, Complaint, Notice of Motion for Temporary Restraining Order and Preliminary Injunction, Motion for Temporary Restraining Order and Preliminary Injunction, Motion for Expedited Hearing, supporting memorandums, affidavits and affirmations (Docket Nos. 1, 2, 3, 4, 5, 6, 7, 8) and this Order upon the named Defendants without Plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in Plaintiff's favor.

FURTHER, that Plaintiff's Motion for an Expedited Hearing. for the issuance of a Temporary Restraining Order and a Preliminary Injunction (Docket No. 7) is GRANTED.

FURTHER, that Plaintiff's counsel shall serve a copy of the Complaint, Notice of

Motion for Temporary Restraining Order and Preliminary Injunction, Motion for Temporary Restraining Order and Preliminary Injunction, Motion for Expedited Hearing, supporting memorandums, affidavits and affirmations (Docket Nos. 1, 2, 3, 4, 5, 6, 7, 8) and this Order on Defendants Brian Fisher and James T. Conway and upon the Assistant Attorney General in Charge, Main Place Tower, Suite 300A, 350 Main Street, Buffalo, New York 14202.

FURTHER, that Defendants shall file a response to Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction on or before December 18, 2008 by 5:00 p.m. and Plaintiff may file a reply by December 19, 2008.

FURTHER, that Plaintiff's counsel and counsel for Defendants Fisher and Conway along with a representative of the New York State Attorney General's Office shall appear before this Court on December 23, 2008, at 9:00 a.m. in Part IV, United States Courthouse, 68 Court Street, Buffalo, New York for a status conference.

FURTHER, that pursuant to 42 U.S.C. § 1997e(g)(2), Defendants are directed to answer the complaint.

Dated: December 11, 2008
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge